

REMARKS

Upon entry of the instant amendment claims 2-17 will remain pending in the above identified application and will stand ready for further action on the merits.

The amendments to the claims do not incorporate new matter into the application as originally filed. For example, the amendment of claim 2, simply puts the same into an independent format, based upon the Examiner's previous indication that claim 2 contained allowable subject matter. Similarly, the amendments to claims 3-8, simply put the claims into a better format for issuance in a United States patent and/or provide for proper ultimate dependency to independent claim 2.

Regarding newly added method claims 9-17, these are based on original claims 1-8 and disclosure in the specification relating to the deodorization of a scalp odor, a body odor or a foot odor, which comprises applying to a subject in need thereof (i) a deodorant composition containing a betaine ester of formula (1), (ii) a deodorant composition containing a betaine ester of formula (2), or (iii) a deodorant composition comprising a betaine ester of formula (1) and a functional perfume. (See pages 4-9 of the specification.)

Accordingly, entry of the instant amendment into the application is respectfully requested, as is the Examiner's proper

consideration of the patentability of each of the instantly pending claims 2-17.

Allowable Subject Matter

At page 3 of the outstanding office action, the Examiner indicated that "Claim 2 is objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." Based on this statement, claim 2 has been redrafted into an independent format and is submitted to now be in condition for allowance, as are all of dependent claims 3-8, which ultimately depend from claim 2.

Claim Rejections - 35 USC § 102(b)

Claims 1 and 3-8 have been rejected under the provisions of 35 USC § 102(b) as being anticipated by DE 3505269 to Bucking et al. Reconsideration and withdraw of this rejection is respectfully requested based on the following considerations.

First, composition claim 1 has been cancelled and the remaining rejected claims 3-8 now ultimately depend from allowable composition claim 2.

Second, each of the newly added claims 9-17 relate to methods for the deodorization of a scalp odor, a body odor or a foot odor (see claims 9-13), wherein recited deodorant compositions used in

the methods may be applied to the hair of a subject in need thereof (see claims 14-15) or to the body (see claims 16-17) of a subject in need thereof. Nowhere in the cited art of Bucking et al. DE '269 is there provided any teaching regarding such deodorizing methods for the deodorization of a scalp odor, a body odor or a foot odor, which comprises applying to a subject in need thereof a composition comprising a betaine ester represented by formula (1) or (2) as recited in pending claims 9-17. This is because Bucking et al. DE '269 is only concerned with providing compositions useful as fabric softeners, as evidenced by the title thereof "*Quaternary Alkylamido Betaine Ester Useful Fabric Softener Compounds Added to Rinse Water*".

Third, in the outstanding office action the Examiner admits that the Bucking et al. DE '269 reference "...is not directed to a deodorant composition or a hair composition..." (*see paragraph 2 of the outstanding office action*), thereby also evidencing the fact that the cited art in no way teaches or otherwise renders obvious the deodorizing methods recited in pending claims 9-17.

Based on the above considerations, it is submitted that nowhere in the cited art is there provided any teachings or disclosure that would anticipate or render obvious any of the instantly pending claims 2-17. As such, withdraw of the outstanding rejection is required at present.

CONCLUSION

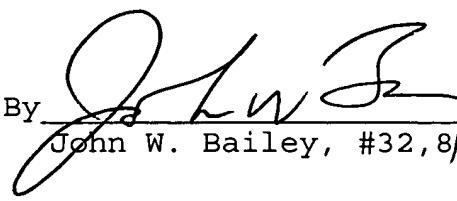
Claims 2-17 remain pending in the application and are now in condition for allowance, as they are not anticipated or rendered obvious by the cited art of record, and at the same time particularly and distinctly set forth the inventive discovery that the Applicant's regard as their own.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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